

See 1965 from
4/5
MOP

4 MAY 1965

OGC REVIEW
COMPLETED

MEMORANDUM FOR: General Counsel

SUBJECT: Sec. 201.(e) of Dual Compensation Act and
Admiral Raborn

1. You asked me to check into the item of 17 April 1965 in The Journal of the Armed Forces (copy attached) which states that Admiral Raborn could receive full civilian salary and full retired pay if the Civil Service Commission makes an appropriate certification.

2. Sec. 201.(e) of the Dual Compensation Act, PL 88-448, 78 Stat. 484 provides in appropriate part:

"(e) Except as otherwise provided in this subsection, the United States Civil Service Commission, subject to the supervision and control of the President, is authorized to prescribe and issue regulations under which exceptions may be made to the restrictions in subsection (a) of this section whenever it is determined by appropriate authority that such exceptions are warranted on the basis of special or emergency employment needs which otherwise cannot be readily met."

3. A search of Civil Service Regulations revealed nothing on the subject. Karl Ruediger, Assistant General Counsel at the Civil Service Commission (code 183, extension 6125), confirmed that no regulations had been issued and no exceptions made or requested to date. (He stated an inquiry had been made on behalf of the successor to Mr. N. E. Malaby at PAA whom he thought to be General McKee.) He added that of course the Journal article is correct to the extent that theoretically the Admiral "could" receive full retirement pay under Sec. 201.(e). Mr. Ruediger indicated that possibly some very broad regulations might be issued in the indefinite future by the Commission.

4. Presumably the "appropriate authority" referred to in Sec. 201.(e) would be the hiring agency and it would be up to that organization to make its justification to the Commission. However, assuming the Comptroller General rules that Admiral Raborn may be paid under Sec. 201.(a) of the Act, it would doubtless be awkward to seek payment under Sec. 201.(e) when the Admiral has already assumed office.

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5. The legislative history of Sec. 201.(e) was not
enlightening. It merely restates the law. See 2 U. S. Cong.
& Adm. News '64, 2634.



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Assistant General Counsel, OL

Attachment:
As stated

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OL/OGC/ [redacted] (4 May 65)

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